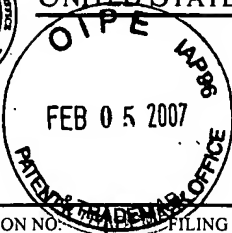




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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,140	04/08/2004	Darren McClelland	14671	6658

293 7590 02/01/2007  
Ralph A. Dowell of DOWELL & DOWELL P.C.  
2111 Eisenhower Ave  
Suite 406  
Alexandria, VA 22314

EXAMINER
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SANDY, ROBERT JOHN

ART UNIT	PAPER NUMBER
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3677

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/01/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**



Application No.

10/820,140

Applicant(s)

MCCLELLAND, DARREN

Examiner

Robert J. Sandy

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 September 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 17-21 and 40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 40 is/are allowed.
- 6) ☒ Claim(s) 17-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

Applicant is advised that the Notice of Allowance mailed 17 October 2006 is vacated. If the issue fee has already been paid, applicant may request a refund or request that the fee be credited to a deposit account. However, applicant may wait until the application is either found allowable or held abandoned. If allowed, upon receipt of a new Notice of Allowance, applicant may request that the previously submitted issue fee be applied. If abandoned, applicant may request refund or credit to a specified Deposit Account.

Prosecution on the merits of this application is reopened on claims 17-21 considered unpatentable for the reasons indicated below:

In view of the new grounds of rejection indicated herein, the finality of the Office action mailed 31 March 2006 is withdrawn.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 21 is rejected under 35 U.S.C. 102(b) as being anticipated by Jensen (U. S. Patent No. 2,2460,640. Jensen ('640) discloses an apparatus (see Fig. 3) for tightening a cord, the apparatus comprising: a body (upper part of device 1); and a grabber (lower jaw like portion) extending from the body and defining a groove (12) therebetween configured to grip the cord therein (as demonstrated in Fig. 1 where Jensen clearly shows the cord diameter much greater than the opening defined by the groove, such that the cord is clearly shown compressed to some degree in order to fit within the groove and between the teeth); and further comprising a plurality of teeth (raised portions adjacent pockets 13) extending from at least one of the body and the grabber within the groove (here the teeth extend from the grabber).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Witte (U. S. Patent No. 1,422,804), in view of Kendzy (U. S. Patent No. 2,090,005), and Campana (U. S. Patent No. 5,924,643). Witte ('804) discloses an apparatus (see Fig. 2) for tightening a cord, the apparatus comprising: a body (section 10 and 13); and a grabber (left most extension part) extending from the body and defining a groove (14, 15) therebetween configured to grip the cord therein (as clearly seen in Fig. 1); wherein the body and the grabber comprise a core material (sheet metal, line 58).

However, Witte ('804) fails to disclose the cord tightening apparatus (body and grabber) having an outer coating (the last limitation of claim 17). The Witte device is intended to be used outdoors and it is well known that metal device exposed to the outside environment are subject to rust and corrosion. Kendzy ('005) discloses a cord tightening device formed of metal that is also intended to be used outdoors, as Kendzy ('005) states that it is desirable to form the device of "rustproof" material (col. 1, line 23). Clearly, as taught by Kendzy, it would have been obvious to one of ordinary skill in the art to have formed the Witte device in some type of "rustproof" manner. Campana ('643) discloses a cord holding device (also a cord tightener since the weight of the device functions to tighten the cord) also exposed to the outside environment that is formed "of steel and provided with a rustproof coating 6, such as a rubberized coating" (col. 3, lines 5-8). Since there is clearly a desirability to form these outdoor cord tighteners/holders being "rustproof", it would have been obvious to one of ordinary skill in the art to have coated the Witte device with a rubberized coating as disclosed by Campana to "rustproof" the device and thereby protect the device from corrosion.

Concerning claims 18-20, since Campana provides the suggestion to have coated the Witte device with a rubberized coating to "rustproof" the device and thereby protect the device from

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corrosion, it would have been obvious to one of ordinary skill in the art to recognize: that the rubberized coating is a resiliently deformable material (regarding claim 18); that the rubberized coating is resiliently deformable material comprising rubber (regarding claim 19); and that the rubberized coating provides a desired amount of friction between the outer coating and the cord due to the resiliency of rubber.

***Allowable Subject Matter***

Claim 40 is allowed.

Claim 40, having been indicated as allowable in the Office action mailed 31 March 2006, has been re-written in independent form, to include all of the limitations of its former base claim 32 and intervening claim 38.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Sandy whose telephone number is 571-272-7073. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



**ROBERT J. SANDY**  
**PRIMARY EXAMINER**  
Robert J. Sandy  
Primary Examiner  
Art Unit 3677

# **Notice of References Cited**

Application/Control  
10/820,140

Examiner  
Robert J. Sand

OWP E  
FEB 05 2007  
U.S. PATENT & TRADEMARK OFFICE

Applicant(s)/Patent Under  
Reexamination  
MCCLELLAND, DARREN

Art Unit  
3677

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## **U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-1,422,804 A	07-1922	WITTE WALTER L	24/129R
*	B	US-2,090,005 A	08-1937	KENDZY THEODORE A	242/388.4
*	C	US-2,460,640 A	02-1949	JENSEN HOWARD M; et. al.	24/328
*	D	US-5,924,643 A	07-1999	Campana, Vincent	242/405.1
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

## **FOREIGN PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

## **NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

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